

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 3724

Petition of Vermont Electric)
Cooperative, Inc. for Relief From)
Order in PSB Docket No. 3724)

Order entered: 2/21/2003

I. INTRODUCTION

This case involves a petition filed by Vermont Electric Cooperative, Inc. ("VEC") on September 13, 2002, for relief from an Order dated November 9, 1973, issued by the Public Service Board ("Board") in Docket No. 3724.¹ Specifically, in this petition VEC requests relief from Condition No. 7 contained in the Certificate of Public Good ("CPG") issued in connection with that Order.²

This filing is responsive to the requirements of the CPG issued by the Board to VEC in Docket No. 6708 on September 12, 2003, for approval of the replacement of an 833 kVA transformer with a 1250 kVA transformer at VEC's substation in Richmond, Vermont. Condition No. 4 of the CPG issued in Docket No. 6708 required VEC to file a request to amend the CPG in Docket No. 3724 to eliminate Condition No. 7 of that CPG, within six months of the Order in Docket No. 6708.³

VEC filed the current petition pursuant to Board Rule 2.221 and Rule 60 of the Vermont Rules of Civil Procedure. Under Board Rule 2.221, the provisions of Rule 60 of the Vermont Rules of Civil Procedure govern requests for relief from Board Orders. Rule 60 provides in relevant part that "the procedure for obtaining any relief from a judgment shall be by motion as

1. Petition of Vermont Electric Cooperative, Inc. for a Certificate of Public Good under 30 V.S.A. § 248 authorizing construction of a 34.5 KV transmission line and underbuilt 12.5/7.2 KV distribution line in the towns of Richmond and Hinesburg, Vermont, and a 34.5/12.5/7.2 KV distribution substation in the town of Hinesburg, Vermont.

2. Condition No. 7 states: No structures, other than a single pole structure, shall remain at the site of the existing Richmond substation after completion of the subject construction. If it is determined by the Petitioner that more structures and equipment other than a single pole structure are in fact necessary at this location, the Petitioner shall submit a proposal regarding this matter to the Board to be set for further hearing pursuant to 30 V.S.A. Section 248.

3. We accept VEC's "Petition for Relief" as a reasonable substitute for the required "Petition to Amend."

proscribed in these rules or by an independent action." VEC has filed this petition as an "independent action" and asserts that the prospective application of Condition 7 is no longer equitable to VEC's members and that relief is justified under V.R.C.P. Rule 60(b)(5). Additionally, VEC asserts that the requested relief is justified under V.R.C.P. Rule 60(b)(6).

In support of its petition, VEC filed an "Affidavit of Harry R. Abendroth" and the "Prefiled Testimony of Harry Abendroth."

Notice of this petition was sent to the Vermont Department of Public Service ("DPS") on October 2, 2002. The DPS filed comments on the petition on October 18, 2002. VEC filed responsive comments on January 21, 2003. No party has requested a hearing on this petition.

II. FINDINGS

Based upon the substantial evidence of record and the testimony presented, the Board makes the following findings, in accordance with 30 V.S.A. § 8.

1. On or about June 25, 1973, VEC filed a petition pursuant to 30 V.S.A. § 248 requesting a certificate of public good with respect to the construction of transmission and distribution lines in the towns of Richmond and Hinesburg and a related substation in the Town of Hinesburg. The requested CPG was granted by the Board in an Order dated November 9, 1973 (the "1973 Order"). The CPG issued by the Board in connection with the Order contained several conditions, including Condition No. 7, which reads as follows:

No structures, other than a single pole structure, shall remain at the site of the existing Richmond substation after completion of the subject construction. If it is determined by the Petitioner that more structures and equipment other than a single pole structure are in fact necessary at this location, the Petitioner shall submit a proposal regarding this matter to the Board to be set for further hearing pursuant to 30 V.S.A. Section 248.

Abendroth Affidavit at 1; Docket No. 3724, CPG issued 11/9/73.

2. Mr. Abendroth, VEC's Chief Engineer, recently discovered Condition No. 7 as a result of a proceeding initiated by VEC under 30 V.S.A. § 248(j) pertaining to a requested upgrade at VEC's substation in Hinesburg, Vermont (Docket No. 6737). VEC's substation in Richmond was downsized after the Order in Docket No. 3724 was issued; however, the facilities that remain are not the "single pole structure" required by Condition No. 7. Two of the three

transformers originally comprising the Richmond Substation were removed and the distribution system was converted from a three-phase distribution system to a single-phase distribution system. The 833 kVA transformer that remains at the substation was installed in 1969 prior to the Order in Docket No. 3724 and prior to 1970 when Board approval of such facilities was first required under 30 V.S.A. § 248. Abendroth Affidavit at 2; Abendroth pf. at 3.

3. VEC has not been able to find any evidence that the existing structure at the Richmond Substation was approved after the Order in Docket No. 3724 or that Condition 7 was modified or withdrawn. Abendroth Affidavit at 2.

4. Since the Order was issued, the Richmond Substation has become a necessary component of VEC's distribution system in Richmond, and load growth in the area now requires an upgrade to the transformer in the Richmond Substation from 833 kVA to 1250 kVA. Abendroth Affidavit at 3; Abendroth pf. at 4.

5. It is not possible for VEC to serve the Richmond load from a structure attached to a single pole as contemplated in Condition 7. A single pole has limited capability to support a transformer that is suitable for use as a substation transformer. The largest size unit that is suitable for mounting on a single pole is a single-phase transformer rated at 333 kVA. Even at this transformer size, it would be very desirable to mount such a unit on a platform between two poles. Abendroth Affidavit at 2-3.

6. A single 333 kVA transformer would be capable of carrying only about 28% of the present Richmond Substation load. Thus, use of the single pole permitted by Condition 7 of the CPG does not provide a satisfactory alternative to continued operation of the existing Richmond Substation. Id. at 3.

7. VEC has no capability in place at this time to serve any of the Richmond Substation distribution systems from another substation. Central Vermont Public Service Corporation ("CVPS") serves the adjoining Jericho distribution system at distribution voltage level, and significant improvements would be required on CVPS' system in order to deliver sufficient replacement energy for the Richmond Substation. Abendroth Affidavit, at 3; Abendroth pf. at 3-4.

8. The only other VEC distribution system in proximity to Richmond is the Hinesburg Substation distribution system. Prior to construction of the Hinesburg Substation, the Hinesburg area was served by a distribution system originating at the Richmond Substation. However, about 5,800 feet of this distribution system was removed after the Hinesburg Substation was completed, presumably to save the cost of replacement. Even if this portion of the distribution system was rebuilt, the Hinesburg Substation could only carry 80% of the winter 2002 peak load experienced on the Richmond distribution system. Abendroth Affidavit at 3-4.

9. VEC is presently negotiating with Green Mountain Power Corporation ("GMP") regarding the possibility of constructing a jointly-owned substation, as a possible solution to VEC's members' energy needs in the Richmond area. GMP and VEC are not yet in a position to file a petition under 30 V.S.A. § 248 for such a facility. Abendroth Affidavit at 4; Abendroth pf. at 3-4.

III. DISCUSSION

The DPS in its comments recommended that VEC's petition should be read to seek only prospective relief from Condition No. 7, and that the Board should prospectively and temporarily suspend the operation of Condition No. 7 for a year, at the end of which VEC would file a report on the progress of its investigation of alternatives to the Richmond substation. VEC has agreed to these DPS recommendations.

We believe that it is reasonable to grant the relief sought by VEC to ensure that its members served by the Richmond Substation will continue to have reliable service. In the short-term, alternatives such as a reliance upon Central Vermont Public Service Corporation have been considered and are not feasible, for reasons set out in Finding of Fact No. 7. The one-year term of this Order should give VEC sufficient time to develop a satisfactory plan with GMP to enhance service to the Richmond area. Consequently, we will grant the relief sought by VEC regarding Condition No. 7, but we will condition the Order as recommended by the DPS.

IV. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont, that:

1. Vermont Electric Cooperative, Inc. ("VEC") is granted temporary and prospective relief from Condition No. 7 of the Certificate of Public Good in Docket No. 3724, dated November 9, 1973, for a period of one year from the date of this Order. VEC is directed to take all reasonable steps to work to develop and implement with Green Mountain Power Corporation alternatives to the Richmond Substation.

2. Within one year from the date of this Order, VEC shall report to the Public Service Board ("Board") and the Vermont Department of Public Service on the progress of its investigation of alternatives to the continued use of the Richmond Substation. VEC may petition the Board for renewal of the suspension of the condition for a period of one year, if it can show that the investigation into alternatives is not complete and that good cause exists as to why the investigation has not been completed.

Dated at Montpelier, Vermont, this 21st day of February, 2003.

<u>s/Michael H. Dworkin</u>)	PUBLIC SERVICE
)	
)	BOARD
<u>s/David C. Coen</u>)	
)	OF VERMONT
)	
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

Filed: February 21, 2003

Attest: s/Susan M. Hudson

Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: Clerk@psb.state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.